

1     **TRANSCRIBED FROM DIGITAL RECORDING**

2                             IN THE UNITED STATES DISTRICT COURT  
3                             NORTHERN DISTRICT OF ILLINOIS  
4                             EASTERN DIVISION

5     UNITED STATES OF AMERICA,                     )  
6                             Plaintiff,                     )  
7                             vs.                     )     No. 08 CR 934  
8     JOHN B. OHLE, III,                     )     Chicago, Illinois  
9                             Defendant.                     )     November 14, 2008  
   )     4:03 P.M.

10                   TRANSCRIPT OF PROCEEDINGS - Removal Hearing  
                  BEFORE THE HONORABLE SUSAN E. COX, Magistrate Judge

11     **APPEARANCES:**

12     For the Government:             HON. PATRICK J. FITZGERALD  
13                                     219 South Dearborn Street  
14                                     Chicago, Illinois 60604  
                                   BY: MS. MAUREEN E. MERIN

15     For the Defendant:            MR. STEVEN D. BLANC  
16                                     825 Green Bay Road  
17                                     Suite 250  
                                   Wilmette, Illinois 60091

18     ALSO PRESENT:                 Mr. James K. Wheatley  
19                                     United States Pretrial Officer

20                             PAMELA S. WARREN, CSR, RPR  
21                             Official Court Reporter  
22                             219 South Dearborn Street  
                                   Room 1928  
23                             Chicago, Illinois 60604  
                                   (312) 294-8907

24     **NOTE: Please notify of correct speaker identification.**  
25     **FAILURE TO SPEAK DIRECTLY INTO THE MICROPHONE MAKES PORTIONS**  
       **UNINTELLIGIBLE.**

1 (Proceedings held in open court:)

2 THE CLERK: 08 CR 934, United States of America versus  
3 John B. Ohle, III.

4 You may be seated.

5 MR. BLANC: You can sit.

6 THE COURT: No, he should come on up. Is that  
7 Mr. Ohle?

8 MR. BLANC: Yes.

9 THE COURT: Yes, please come up.

10 MR. BLANC: Good afternoon, Judge.

11 THE COURT: Stand behind the podium, sir, if you  
12 would. Thank you.

13 MR. BLANC: My name is Steve Blanc --

14 THE COURT: Go -- just go ahead.

15 MR. BLANC: -- and I represent John Ohle.

16 THE COURT: Okay.

17 MS. MERIN: Good afternoon, your Honor. Maureen  
18 Merin, M-e-r-i-n, on behalf of the United States.

19 THE COURT: Good morning.

20 MR. WHEATLEY: James Wheatley with U.S. Pretrial  
21 Services.

22 THE COURT: Good afternoon.

23 And good afternoon to you, Mr. Ohle.

24 THE DEFENDANT: Good afternoon.

25 THE COURT: You have an appearance form?

1 MR. BLANC: No, I do not --

2 THE CLERK: (Unintelligible).

3 MR. BLANC: -- but I will.

4 THE COURT: Are you privately retained?

5 MR. BLANC: Yes.

6 THE COURT: Okay.

7 THE CLERK: Is it S-t-e-v-e-n?

8 MR. BLANC: That's correct.

9 THE CLERK: Thank you.

10 MR. BLANC: B-l-a-n-c is the last name.

11 THE CLERK: Thank you.

12 THE COURT: Okay. Are we ready?

13 MR. BLANC: Yes. If it is all right, can I fill this  
14 out afterwards?

15 THE CLERK: Yes.

16 THE COURT: Sure.

17 MR. BLANC: Thank you.

18 THE COURT: The purpose of the hearing today,  
19 Mr. Ohle, is to inform you of the charges pending you against  
20 you, inform you of rights which are important to you, and to  
21 set and describe the circumstances of your release from custody  
22 pending further court proceedings in this case if I deem it to  
23 be appropriate. You will not be called upon to answer the  
24 charge at this time.

25 When was Mr. Ohle taken into custody, Ms. Merin?

1 MS. MERIN: Approximately noon today, your Honor.

2 THE COURT: All right. Now I want to go over with you  
3 rights which are important to you, Mr. Ohle. First, you are  
4 not required to make any statement. If you have made a  
5 statement, you need not say anything else. If you choose to  
6 make a statement, you may stop at any time. But keep in mind  
7 any statement made by you can be used against you.

8 Do you understand what I have just explained to you?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: I also want to advise you that you have  
11 the right to counsel and to confer with your counsel at every  
12 critical stage of this criminal proceeding. What that means is  
13 if at any time during this hearing or any other hearings you  
14 might have you have a question you need to ask your lawyer, you  
15 just let me or any other judge know, and they will stop the  
16 hearing and give you the opportunity to do that.

17 Do you understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Okay. If you are unable to afford an  
20 attorney, an attorney will be appointed to represent you at no  
21 cost to yourself. You also have the right, which you have  
22 exercised here, to retain counsel of your own choice.

23 You also have the right to waive the assistance of  
24 counsel and to represent yourself if you voluntarily and  
25 intelligently elect to do so.

1           You have the right to be represented by your lawyer  
2 during any questioning by governmental authorities.

3           Do you fully understand your rights concerning  
4 counsel?

5           THE DEFENDANT: Yes, ma'am.

6           THE COURT: All right. Could you place Mr. Ohle under  
7 oath, please?

8           THE CLERK: Yes.

9           (Defendant sworn.)

10          THE COURT: All right. The only questions I'm going  
11 to ask you, sir, are your full name, your age, and your  
12 birthdate.

13          Okay. So let's start with your full name.

14          THE DEFENDANT: John Brewster Ohle, III. My birthdate  
15 is December 21st, 1967, and --

16          THE COURT: That makes you how old?

17          THE DEFENDANT: I'm 40.

18          THE COURT: Okay. Ms. Merin, has the defendant and  
19 the defendant's counsel been provided a copy of the affidavit  
20 of indictment and removal proceedings as well as the attached  
21 indictment from the Southern District of New York?

22          MS. MERIN: Yes, they have, your Honor. And I would  
23 just note for the record, although the indictment indicates it  
24 was filed under seal, that seal was lifted this morning --

25          THE COURT: Thank you.

1 MS. MERIN: -- in the Southern District of New York.

2 THE COURT: Okay. Would you state -- I know that  
3 there are several charges. But would you summarize briefly  
4 what the charges are and then the maximum possible penalty.

5 MS. MERIN: Yes, your Honor. He's been charged,  
6 Mr. Ohle, the defendant, has been charged with a violation of  
7 Title 18, United States Code, Section 371, for the offense of  
8 conspiracy to impede the functions of the Internal Revenue  
9 Service to evade income taxes in violation of Title 26, United  
10 States Code, Section 7201, to assist in the presentation to the  
11 IRS of materially false and fraudulent tax returns in violation  
12 of Title 26, United States Code, Section 7206(2).

13 He's also been indicted on counts of violation of  
14 Title 26, United States Code, Section 7201, and Title 18,  
15 United States Code, Section 2, for the offense of evasion of  
16 income tax.

17 An additional count of conspiracy under Title 18,  
18 United States Code, Section 371, for wire -- for conspiracy to  
19 commit wire fraud, conspiracy to evade income tax, and  
20 conspiracy to assist in the presentation to the United States  
21 of materially false returns, and also to submit fraudulent  
22 returns to the IRS.

23 Finally, he's been indicted on counts of a violation  
24 of Title 26, United States Code 7212(a), for the offense of  
25 obstructing and impeding the administration of the Internal

1 Revenue laws.

2 The penalty is -- for the Title 26 counts, your Honor,  
3 are \$100,000 fine and three years's imprisonment.

4 THE COURT: Okay.

5 MS. MERIN: The maximum penalties for the conspiracy  
6 charged under Title 18, Section 371, is five years's  
7 imprisonment and a maximum fine of \$250,000 and three years of  
8 supervised release.

9 THE COURT: Thank you.

10 Mr. Ohle, do you understand the charges that are  
11 pending against you?

12 Do you have any questions you want to ask your  
13 attorney right now?

14 THE DEFENDANT: No.

15 THE COURT: Okay. So do you understand generally what  
16 you have been charged with?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. Do you understand the nature of the  
19 maximum penalty provided for those charges?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. Now because this is a removal  
22 proceeding, before I can order your return to the Southern  
23 District of New York, you have the right to what is called an  
24 identity hearing, which means we would have a hearing, if you  
25 so choose, to establish that you in fact are the same John Ohle

1 that's the person named in this indictment.

2 Do you wish to have such a hearing, counsel?

3 MR. BLANC: No.

4 THE COURT: All right. I also want to advise you of  
5 the potential for having your case transferred to this district  
6 for this disposition. If you wanted such a transfer, you would  
7 have to state in writing that you did and that you also were  
8 willing to plead guilty or no contest and to waive trial in the  
9 Southern District of New York and to consent to disposition of  
10 this case in the Northern District of Illinois.

11 And, again, before that can be allowed, both the  
12 United States Attorneys for the Southern District of New York  
13 and the Northern District of Illinois would have to agree.

14 Let's now turn to the issue of bond pending further  
15 proceedings. What's the government's position, Ms. Merin?

16 MS. MERIN: The government's position is defendant  
17 should be detained because he presents a serious risk of  
18 flight. It is our belief, given the defendant's financial  
19 resources, his history of recent foreign travel and frequent  
20 foreign travel, and the -- and considering the evidence that  
21 has been accumulated and underlies some of the allegations in  
22 the indictment, has multiple homes, multiple bank accounts,  
23 multiple resources that are held in trust, some of the  
24 allegations, and they are allegations in the indictment, but,  
25 nonetheless, indicate that defendant has been underreporting



1 his income to the IRS by half a million dollars over a period  
2 of years. That he has executed transfers of money in the  
3 hundreds of thousands of dollars to execute his scheme, and  
4 that he -- he has these type of resources where should he  
5 choose to flee, he is facing forfeiture of his home in  
6 Wilmette, of his other home in New Orleans, of significant  
7 trusts that contain sports memorabilia --

8 THE COURT: Uh-huh.

9 MS. MERIN: -- that have a distinct value. The  
10 intended loss to the IRS is in the hundreds of millions of  
11 dollars. And the forfeiture allegation alone is \$1.7 million  
12 dollar.

13 It is the government's position, and in communication  
14 with the attorneys in the Southern District of New York, whose  
15 case this is, that defendant should be detained unless he can  
16 post a secured bond in the range of 1 million or over -- 1  
17 million -- \$1.2 million that would adequately assure us that he  
18 would not flee given this -- the gravity of the charges against  
19 him.

20 THE COURT: Counsel.

21 MR. BLANC: Well, with all due respect, this case is  
22 a -- for bond we're talking about an issue of flight risk. The  
23 investigation has been going on for -- I'm not privy to exact  
24 terms -- but for years.

25 THE COURT: Uh-huh.

1           MR. BLANC: Mr. Ohle has represented -- had  
2 representation in my -- with me, with previous criminal defense  
3 attorney, and currently with Mr. David Spears in New York.

4           He's answered all correspondence. He -- Mr. Spears  
5 has dealt most recently with the U.S. Attorney's Office in New  
6 York, cooperated to the extent they could with the  
7 investigation.

8           Mr. Ohle hasn't gone anywhere in four years. He has a  
9 -- three children, one a 19-month-old adopted child that's home  
10 with his wife here in Wilmette who is -- they are members of  
11 the church. He has two other children, one age eight, one age  
12 12. They go to St. Joseph's School, and they are active in the  
13 church. He is incredibly active in the community here in  
14 Wilmette. He has shown no flight risk ever in his life.

15           The travel that counsel makes reference to is a -- for  
16 the most part an annual international travel that they do with  
17 their family where they bring in-laws, their kids, whether it  
18 is a ski vacation, whether it is going to the football game in  
19 London. They return immediately thereafter.

20           He's got a practice here in -- which is his only  
21 source of -- of real income.

22           THE COURT: How does he make his living?

23           MR. BLANC: He's an attorney. He's a partner in the  
24 law firm which is located here in Chicago.

25           He's not going anywhere.

1           THE COURT: Well, here's the thing. The only issue  
2 before me is whether he is transported to the Northern -- or,  
3 I'm sorry -- the Southern District of New York in custody or  
4 whether he's released on bond for that.

5           I assume from what you are saying that you wish to  
6 have a detention hearing. I'm not going to make any decision  
7 about detention until this individual is thoroughly interviewed  
8 by the pretrial service report, and I have a report. I can't  
9 simply go on unverified information, and I'm not going to do  
10 that.

11           You have a couple of options. I mean, you can waive  
12 your right to detention hearing before me and re-raise it in  
13 New York where the charges are pending. We can go forward with  
14 the hearing here in Chicago to determine how he gets to New  
15 York. It is basically your call.

16           The government has the right to, up to three days, to  
17 prepare for a detention hearing. You have the right to have a  
18 detention hearing within five days.

19           It is -- but I'm not going to release anyone until I  
20 have had an -- this individual has been interviewed and I have  
21 a report from Pretrial Services.

22           MR. BLANC: Well, it is my understanding he has been  
23 interviewed.

24           THE COURT: I -- I need to see the report.

25           MR. BLANC: Can we take testimony from Pretrial

1 Services --

2 THE COURT: No --

3 MR. BLANC: -- as part of --

4 THE COURT: -- you may not. No.

5 MR. BLANC: Because it puts us -- I mean, he has got  
6 -- he has got a little --

7 THE COURT: It is not -- I will tell you something  
8 given that he would have to post property -- it is now 4:17.

9 When is the last -- I mean, are you --

10 MR. BLANC: No, I realize it -- your Honor, it is  
11 impossible --

12 THE COURT: You know --

13 MR. BLANC: -- to post it by 4:30.

14 THE COURT: It is today, right. So that gives our  
15 Pretrial Services officer time to prepare the report that I  
16 need.

17 I mean I can take this issue up on Monday if you'd  
18 like. As soon as Monday. I mean, I have --

19 MS. MERIN: That's fine, your Honor. Whatever time on  
20 Monday.

21 THE COURT: I mean, but the government -- the  
22 government has a statutory right of three days.

23 MS. MERIN: We would just ask that --

24 THE COURT: I assume that -- I assume that you're  
25 exercising your right --

1 MS. MERIN: That's right.

2 THE COURT: -- if you have moved for detention.

3 MS. MERIN: That's right, your Honor. We would just  
4 ask that whatever hearing be held on Monday be an amount of  
5 time where we could review the Pretrial Services --

6 THE COURT: Well, see, that's the thing --

7 MS. MERIN: -- report.

8 THE COURT: -- because everybody -- the way it works  
9 is he does his report. You have a chance to review it,  
10 challenge anything, check it out.

11 The government has that same right.

12 And then I review it, and I make determinations based  
13 on what I see.

14 MR. BLANC: No, I understand that, your Honor.

15 THE COURT: So --

16 MR. BLANC: I'm only going from my experience in cases  
17 similar to this in the tax world --

18 THE COURT: Right.

19 MR. BLANC: -- where we have an individual who has  
20 been under investigation, has able counsel, has been  
21 communicating, and they go in and arrest him at noon on a  
22 Friday --

23 MS. MERIN: Your Honor --

24 THE COURT: I can't -- none of that, frankly, has --

25 MR. BLANC: I understand the position you're in --

1           THE COURT: I understand your frustration. But the  
2 bottom line is he is now, you know, under arrest. There is an  
3 indictment pending in the Southern District of New York. The  
4 Southern District of New York has obviously told the assistant  
5 U.S. Attorney that they would like him to be detained pending  
6 further proceedings in New York. She's made the motion. Now  
7 we go forward with what needs to be done to have the hearing.

8           So let's set the time and -- and are we going to have  
9 enough time? Are you going to have enough time if I would  
10 consider a bond to marshal whatever you need to do? Because  
11 the time we set for this should be a time to allow everyone to  
12 get everything they need to get done in order to have it  
13 happen.

14           And I'm not -- I don't want to set it on Monday  
15 morning if that's a futile --

16           MS. MERIN: Okay.

17           THE COURT: And I want to hear from you too -- I mean,  
18 this sounds like it might be a thoroughly complicated  
19 investigation.

20           When do you think you'd be able to get a report to me?

21           MR. WHEATLEY: Judge, I can get it done when you set  
22 the hearing (unintelligible).

23           MR. BLANC: Monday morning.

24           (Unintelligible colloquy.)

25           MS. MERIN: I just -- keep in mind, I mean, you know,

1 our position is detention. Our back-up position is release  
2 with secured property. Those properties need to get checked  
3 out, as I'm sure you're familiar if anybody has posted bond --

4 THE COURT: Right.

5 MS. MERIN: -- in the Northern District. We still  
6 need time where we have to --

7 THE COURT: Yeah, I don't --

8 MS. MERIN: -- we're not going to approve this  
9 security --

10 THE COURT: I don't think it is possible for you to  
11 get this -- I mean, it doesn't sound like --

12 MS. MERIN: Right.

13 THE COURT: If you're talking about posting property  
14 and giving time for the government to figure out whether that  
15 property is good property --

16 MS. MERIN: We're still going to need  
17 (unintelligible).

18 THE COURT: -- it don't sound like Monday or even  
19 Tuesday makes a lot of sense.

20 But you tell me. I'm at your disposal.

21 MR. BLANC: Well, I have -- I'm -- I have been  
22 a -- because you're telling me that the U.S. Attorney's Office  
23 has got to basically check out the property, and so --

24 MS. MERIN: Well --

25 THE COURT: What I am telling you is under the statute

1 that governs my decision, the United States Attorney's Office,  
2 the government, has a statutory right to three days once they  
3 move for detention, not including the weekend. You have a  
4 right to five days. That's how it works.

5 If you want to have the hearing on Monday morning, you  
6 know, that's fine. But it doesn't seem like that's going to be  
7 the best use of our time.

8 MR. BLANC: Well, that's why --

9 THE COURT: But again --

10 MR. BLANC: So I'm asking if we provide you a list of  
11 the -- of the properties, I'm asking the government --

12 MS. MERIN: There is a -- there is a complex set of  
13 requirements, as I'm sure you're -- counsel, you have, in your  
14 case taxes, have encountered before as to appraisals, as to  
15 market worth. It is not -- a secured bond is only as good as  
16 the security. If there is no actual security in the houses or  
17 if the houses, like two of defendant's properties are named as  
18 -- in the forfeiture allegation in the indictment, they're  
19 essentially -- they are not too probative in terms of security.

20 MR. BLANC: We're not talking -- we're not talking  
21 about --

22 THE COURT: All right. You know what, this  
23 negotiations doesn't need to occur in front of me.

24 MS. MERIN: That's right, your Honor.

25 THE COURT: What I need to do is find out from both



1 sets of counsel when they would like to proceed with the  
2 detention hearing. Tell me when you want to go.

3 And I think really, government, when would you be  
4 ready, do you think?

5 MS. MERIN: Realistically, your Honor, if the question  
6 was to post secured bond --

7 THE COURT: Uh-huh.

8 MS. MERIN: -- I think we would not be ready to go  
9 until at least the end of the day on Tuesday.

10 THE COURT: Tuesday.

11 MS. MERIN: So --

12 THE COURT: Well, why don't I set it then for --

13 MR. BLANC: I cannot do it on Tuesday.

14 THE COURT: I'll set it for Wednesday morning.

15 (Unintelligible colloquy.)

16 THE COURT: I can -- I really -- I have a  
17 naturalization in the morning, and then I have a 10:00  
18 o'clock.

19 I could see you at --

20 MR. BLANC: Is there any way I can represent to you,  
21 your Honor, that we will make him available on Wednesday so he  
22 doesn't spend the weekend in custody?

23 THE COURT: No, I -- I just want to go over this  
24 again. Once the government moves for detention and they have  
25 presented evidence of risk of flight, they have a right to

1 three days. Okay? That's how the statute works. I didn't  
2 write the statute, but I have to apply it and follow it.

3 We'll have the hearing on Wednesday at 10:15.

4 Does that work?

5 THE CLERK: I think so.

6 THE COURT: I have got something criminal at 10:00,  
7 but I think it is short.

8 MS. MERIN: Okay.

9 THE COURT: Okay. So until that time, Mr. Ohle, you  
10 will be held in custody. We will take up the issue of your  
11 bond on Wednesday at 10:15.

12 MS. MERIN: Thank you, your Honor.

13 THE COURT: All right? Thank you.

14 MR. BLANC: Thank you, your Honor.

15 (Which concluded the proceedings in the above-entitled  
16 matter.)

17 CERTIFICATE

18 I HEREBY CERTIFY that the foregoing is a true, correct  
19 and complete transcript of the proceedings had at the hearing  
20 of the aforementioned cause on the day and date hereof.

21  
22 /s/Pamela S. Warren  
23 Official Court Reporter  
24 United States District Court  
25 Northern District of Illinois  
Eastern Division

April 4, 2012  
Date